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8
9 **UNITED STATES BANKRUPTCY COURT**
NORTHERN DISTRICT OF CALIFORNIA
10 **SAN FRANCISCO DIVISION**

11
12 **In re:**

13 **PG&E CORPORATION,**

14 **- and -**

15 **PACIFIC GAS AND ELECTRIC**
16 **COMPANY,**

17 **Debtors.**

- 18 ☐ Affects PG&E Corporation
19 ☐ Affects Pacific Gas and Electric Company
☒ Affects both Debtors

20 ** All papers shall be filed in the Lead Case, No.*
21 *19-30088 (DM).*

Bankruptcy Case No. 19-30088 (DM)

Chapter 11

(Lead Case) (Jointly Administered)

**REORGANIZED DEBTORS' ONE
HUNDRED TWELFTH OMNIBUS
OBJECTION TO CLAIMS (SATISFIED
CLAIMS / NO LEGAL LIABILITY CLAIMS)**

Response Deadline:
December 7, 2021, 4:00 p.m. (PT)

Hearing Information If Timely Response Made:

Date: December 21, 2021

Time: 10:00 a.m. (Pacific Time)

Place: (Tele/Videoconference Appearances Only)

United States Bankruptcy Court

Courtroom 17, 16th Floor

San Francisco, CA 94102

1 **TO: (A) THE HONORABLE DENNIS MONTALI, UNITED STATES BANKRUPTCY**
2 **JUDGE; (B) THE OFFICE OF THE UNITED STATES TRUSTEE; (C) THE AFFECTED**
3 **CLAIMANTS; AND (D) OTHER PARTIES ENTITLED TO NOTICE:**

4 PG&E Corporation (“**PG&E Corp.**”) and Pacific Gas and Electric Company (the “**Utility**”), as
5 debtors and reorganized debtors (collectively, the “**Debtors**,” or as reorganized pursuant to the Plan (as
6 defined below), the “**Reorganized Debtors**”) in the above-captioned Chapter 11 cases (the “**Chapter**
7 **11 Cases**”), hereby submit this One Hundred Twelfth Omnibus Objection (the “**Objection**”) to the
8 claims identified in the columns headed (i) “Claims To Be Disallowed and Expunged” on **Exhibit 1** and
9 (ii) “Claims To Be Disallowed and Expunged” on **Exhibit 2** annexed hereto.

10 **I. JURISDICTION**

11 This Court has jurisdiction over this Objection under 28 U.S.C. §§ 157 and 1334; the *Order*
12 *Referring Bankruptcy Cases and Proceedings to Bankruptcy Judges*, General Order 24 (N.D. Cal.); and
13 Rule 5011-1(a) of the Bankruptcy Local Rules for the United States District Court for the Northern
14 District of California (the “**Bankruptcy Local Rules**”). This matter is a core proceeding pursuant to 28
15 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The
16 statutory predicates for the relief requested are section 502 of Title 11 of the United States Code (the
17 “**Bankruptcy Code**”) and Rule 3007 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy**
18 **Rules**”).

19 **II. BACKGROUND**

20 On January 29, 2019 (the “**Petition Date**”), the Debtors commenced with the Court voluntary
21 cases under Chapter 11 of the Bankruptcy Code. Prior to the Effective Date (as defined below), the
22 Debtors continued to operate their businesses and manage their properties as debtors in possession
23 pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner was appointed
24 in either of the Chapter 11 Cases. The Chapter 11 Cases are being jointly administered for procedural
25 purposes only pursuant to Bankruptcy Rule 1015(b).

26 Additional information regarding the circumstances leading to the commencement of the
27 Chapter 11 Cases and information regarding the Debtors’ businesses and capital structure is set forth in
28 the *Amended Declaration of Jason P. Wells in Support of the First Day Motions and Related Relief*
[Docket No. 263].

1 On July 1, 2019, the Court entered the *Order Pursuant to 11 U.S.C. §§ 502(b)(9) and 105(a),*
2 *Fed. R. Bankr. P. 2002, 3003(c)(3), 5005, and 9007, and L.B.R. 3003-1 (I) Establishing Deadline for*
3 *Filing Proofs of Claim, (II) Establishing the Form and Manner of Notice Thereof, and (III) Approving*
4 *Procedures for Providing Notice of Bar Date and Other Information to All Creditors and Potential*
5 *Creditors* [Docket No. 2806] (the “**Bar Date Order**”). The Bar Date Order set the deadline to file all
6 proofs of claim (each, a “**Proof of Claim**”) in respect of any prepetition claim (as defined in section
7 101(5) of the Bankruptcy Code), including all claims of Fire Claimants (as defined therein), Wildfire
8 Subrogation Claimants (as defined therein), Governmental Units (as defined in section 101(27) of the
9 Bankruptcy Code), and Customers, and for the avoidance of doubt, including all secured claims and
10 priority claims, against either of the Debtors as October 21, 2019 at 5:00 p.m. Pacific Time (the “**Bar**
11 **Date**”). The Bar Date later was extended solely with respect to unfiled, non-governmental Fire
12 Claimants to December 31, 2019 [Docket No. 4672]¹; and subsequently with respect to certain claimants
13 that purchased or acquired the Debtors’ publicly held debt and equity securities and may have claims
14 against the Debtors for rescission or damages to April 16, 2020 [Docket No. 5943].

15 By Order dated June 20, 2020 [Dkt. No. 8053], the Bankruptcy Court confirmed the *Debtors’*
16 *and Shareholder Proponents’ Joint Chapter 11 Plan of Reorganization Dated June 19, 2020* (as may be
17 further modified, amended or supplemented from time to time, and together with any exhibits or
18 scheduled thereto, the “**Plan**”). The Effective Date of the Plan occurred on July 1, 2020 (the “**Effective**
19 **Date**”). See Dkt. No. 8252.

20 III. RELIEF REQUESTED

21 The Reorganized Debtors file this Objection, pursuant to section 502 of the Bankruptcy Code,
22 Bankruptcy Rule 3007, Bankruptcy Local Rule 3007-1, and the *Order Approving (A) Procedures for*
23 *Filing Omnibus Objections to Claims and (B) the Form and Manner of the Notice of Omnibus*
24 *Objections*, dated June 30, 2020 [Docket No. 8228] (the “**Omnibus Objections Procedures Order**”),
25 seeking entry of an order disallowing and expunging the claims as further described below.

26
27 ¹ The claims of Fire Claimants will be administered through the Fire Victim Trust and the claims of
28 Wildfire Subrogation Claimants through the Subrogation Wildfire Trust in accordance with the Plan.

1 **IV. ARGUMENT**

2 The Omnibus Objections Procedures Order supplemented Bankruptcy Rule 3007(d) to permit
3 the Reorganized Debtors to file objections to more than one claim if either (1) they “have been satisfied
4 or released during the case in accordance with the Code, applicable rules, or a court order” or (2) “[t]he
5 claims seek recovery of amounts for which the Debtors are not liable” or “[t]he claims are objectionable
6 on some other common basis under applicable bankruptcy or non-bankruptcy law” Fed. R. Bankr.
7 P. 3007(d)(5); Omnibus Objections Procedures Order, ¶ 2(C)(iii), (vii). Bankruptcy Rule 3007(e)
8 requires that an omnibus objection must list the claimants alphabetically and by cross-reference to claim
9 numbers.

10 Each of the Claimants on **Exhibit 1** and **Exhibit 2** is listed alphabetically, and the claim
11 number and amount are identified in accordance with Bankruptcy Rule 3007(e). Furthermore, in
12 accordance with the Omnibus Objections Procedures Order, the Reorganized Debtors have sent
13 individualized notices to the holders of the Satisfied Claim and the No Legal Liability Claim, each as
14 defined and described below.

15 **A. The Satisfied Claim Should Be Disallowed and Expunged**

16 The Reorganized Debtors seek entry of an order disallowing and expunging a claim that the
17 Reorganized Debtors have determined was satisfied or released during or prior to the commencement of
18 these Chapter 11 Cases in accordance with the Bankruptcy Code, any applicable rules, or Court orders
19 (the “**Satisfied Claim**”). The Satisfied Claim is identified on **Exhibit 1**, in the column headed “Claims
20 To Be Disallowed and Expunged,” and is classified in the “Basis for Objection” column as a “Satisfied
21 Claim,” referring to Claims that have been satisfied prior to or during the pendency of these Chapter 11
22 Cases.

23 This Proof of Claim (No. 79082) was asserted by Claimant ICF Jones & Stokes, Inc. It arises
24 from sixty-nine invoices for post-petition services, totaling \$637,420.09. The Plan provides that such
25 Administrative Expense Claims (as defined therein) are to be paid by the Reorganized Debtors in the
26 ordinary course of business, consistent with past practice. Plan § 2.1. The invoices underlying the
27 Satisfied Claim have in fact been paid in the ordinary course of business. Accordingly, the Reorganized
28 Debtors request that the Court disallow and expunge the Satisfied Claim in its entirety.

1 **B. The No Legal Liability Claim Should Be Disallowed and Expunged**

2 The Reorganized Debtors also seek entry of an order disallowing and expunging a Proof of Claim
3 for which the Reorganized Debtors are not liable (the “**No Legal Liability Claim**”). The No Legal
4 Liability Claim is identified in the column headed “Claims To Be Disallowed and Expunged” in
5 **Exhibit 2**. **Exhibit 2** also specifically identifies in the “Basis for Objection” that the No Legal Liability
6 Claim is classified as “Barred by Statute of Limitations,” as discussed further below.

7 This Proof of Claim (No. 91910) was asserted by Claimant Daniel Cavini. It arises from the
8 Ghost Ship Fire, which occurred in Oakland, California on December 2, 2016. *See* Plan § 1.91. Mr.
9 Cavini alleges wrongful death and emotional distress, but did not raise these causes of action, in a civil
10 action or otherwise, in advance of filing his Proof of Claim on December 26, 2019. California’s statute
11 of limitations for wrongful death and personal injury, including infliction of emotional distress, is two
12 years. Cal. Code Civ. P. § 335.1. The statute of limitations for Mr. Cavini’s claim therefore expired on
13 December 2, 2018. Pursuant to section 350 of the California Code of Civil Procedure, an action is
14 commenced when a complaint is filed. Under the applicable California statute of limitations period
15 identified above, Mr. Cavini’s right to bring such claims against the Debtors expired prior to the Petition
16 Date.

17 Additionally, the decedent whose death in the Ghost Ship Fire forms the basis of Mr. Cavini’s
18 claim was the daughter of Mr. Cavini’s girlfriend. Mr. Cavini has not argued or provided any support
19 that his girlfriend is his “putative spouse” as defined by the California Code of Civil Procedure, nor that
20 the decedent was his dependent at the time of her tragic passing. As a result, Mr. Cavini does not have
21 standing to assert a wrongful death claim. *See* Cal. Code Civ. P § 377.60 (a)-(b).

22 For these reasons, the Reorganized Debtors are not liable, and the No Legal Liability Claim
23 should be disallowed and expunged. Accordingly, the Reorganized Debtors request that the Court
24 disallow and expunge the No Legal Liability Claim in its entirety.²

25 _____
26 ² The Reorganized Debtors recognize that the No Legal Liability Claim asserts a “Ghost Ship Fire Claim”
27 under Section 1.92 of the Plan because it “relate[s] to or aris[es] from the Ghost Ship Fire,” and that
28 Ghost Ship Fire Claims pass through the Plan as described in Section 4.27(a). The Reorganized Debtors
submit, however, that because the No Legal Liability Claim is time-barred under California law and fails
on that ground regardless of forum, it is more appropriate and efficient to disallow and expunge the

1 **C. The Claimants Bear the Burden of Proof**

2 A proof of claim is “deemed allowed, unless a party in interest . . . objects.” 11 U.S.C. § 502(a).³
3 Section 502(b)(1) of the Bankruptcy Code, however, provides in relevant part that a claim may not be
4 allowed if “such claim is unenforceable against the debtor and property of the debtor, under any
5 agreement or applicable law.” 11 U.S.C. § 502(b)(1). Once the objector raises “facts tending to defeat
6 the claim by probative force equal to that of the allegations of the proofs of claim themselves,” *Wright*
7 *v. Holm (In re Holm)*, 931 F.2d 620, 623 (9th Cir. 1991), quoting 3 L. King, *Collier on Bankruptcy*
8 § 502.02 at 502-22 (15th ed. 1991), then “the burden reverts to the claimant to prove the validity of the
9 claim by a preponderance of the evidence.” *Ashford v. Consolidated Pioneer Mortgage (In re*
10 *Consolidated Pioneer Mortgage)*, 178 B.R. 222, 226 (B.A.P. 9th Cir. 1995) (quoting *In re Allegheny*
11 *Int’l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)), *aff’d without opinion* 91 F.3d 151 (9th Cir. 1996).
12 “[T]he ultimate burden of persuasion is always on the claimant.” *Holm*, 931 F.2d at 623 (quoting King,
13 *Collier on Bankruptcy*); *see also Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th
14 Cir. 2000); *Spencer v. Pugh (In re Pugh)*, 157 B.R. 898, 901 (B.A.P. 9th Cir. 1993); *In re Fidelity*
15 *Holding Co.*, 837 F.2d 696, 698 (5th Cir. 1988).

16 As set forth in Section IV.A above, the Reorganized Debtors submit that the Satisfied Claim
17 already has been satisfied prior to or over the course of the Chapter 11 Cases and, therefore, should be
18 disallowed and expunged. If the Claimant believes that the Satisfied Claim has not been satisfied in full,
19 it must present affirmative evidence demonstrating the validity of that claim.

20 As set forth in Section IV.B above, the No Legal Liability Claim asserts an amount for which the
21 Reorganized Debtors are not liable and, therefore, should be disallowed and expunged in its entirety. If
22 the Claimant believes that the No Legal Liability Claim is valid, it must present affirmative evidence
23 demonstrating the validity of that claim.

24 Claim in the Chapter 11 Cases than to force the Reorganized Debtors to raise the same and additional
25 defenses in an as-yet nonexistent lawsuit at an unknown later date. The Reorganized Debtors reached a
 settlement in principle with the Claimant, but have not been able to execute a formal agreement.

26 ³ Upon the Reorganized Debtors’ request, the deadline under Section 7.1 of the Plan for the Reorganized
27 Debtors to bring objections to Claims initially was extended through and including June 26, 2021 (except
28 for Claims of the United States, which deadline was extended to March 31, 2021) [Docket No.
 9563]. That deadline has been further extended through June 21, 2022 [Docket No. 11533], except with
 respect to the claims of certain state and federal governmental entities not applicable to this Objection.

1 **V. RESERVATION OF RIGHTS**

2 The Reorganized Debtors hereby reserve the right to object, as applicable, in the future to any of
3 the Proofs of Claim listed in this Objection on any ground, and to amend, modify, or supplement this
4 Objection to the extent an objection to a claim is not granted, and to file other objections to any proofs
5 of claims filed in these cases, including, without limitation, objections as to the amounts asserted therein,
6 or any other claims (filed or not) against the Debtors, regardless of whether such claims are subject to
7 this Objection. A separate notice and hearing will be scheduled for any such objections. Should the
8 grounds of objection specified herein be overruled, wholly or in part, the Reorganized Debtors reserve
9 the right to object to the Satisfied Claim and the No Legal Liability Claim on any other grounds that the
10 Reorganized Debtors may discover or deem appropriate.

11 **VI. NOTICE**

12 Notice of this Objection will be provided to (i) holders of the Satisfied Claim and No Legal
13 Liability Claim; (ii) the Office of the U.S. Trustee for Region 17 (Attn: Andrew R. Vara, Esq. and
14 Timothy Laffredi, Esq.); (iii) all counsel and parties receiving electronic notice through the Court's
15 electronic case filing system; and (iv) those persons who have formally appeared in these Chapter 11
16 Cases and requested service pursuant to Bankruptcy Rule 2002. The Reorganized Debtors respectfully
17 submit that no further notice is required. No previous request for the relief sought herein has been made
18 by the Reorganized Debtors to this or any other Court.

19 WHEREFORE the Debtors respectfully request entry of an order granting the relief requested
20 herein and such other and further relief as the Court may deem just and appropriate.

21 Dated: November 10, 2021

KELLER BENVENUTTI KIM LLP

22 By: /s/ Dara L. Silveira
23 Dara L. Silveira

24 *Attorneys for Debtors and Reorganized Debtors*